

**HIGH COURT OF TRIPURA
AGARTALA
WP(C) No. 114 of 2024**

Md. Firoj Mia,
Aged 44 years, S/o. Kalam Mia, R/o: 129 Prakash Nagar,
P.s.: Puran Rajbari, Sub Division: Belonia, Dist: South Tripura,
Pin: 799158.

.....Petitioner(s).

Vs.

- The State of Tripura,**
to be represented by the Secretary, Department of Agriculture
& Farmer's Welfare, Government of Tripura, New Secretariat
Building, New Capital Complex, Kunjaban, Agartala, West
Tripura, PIN:799010.
- The Director,**
Department of Agriculture & Farmer's Welfare, Govt. of Tripura,
Krishi Bhavan, Agartala, West Tripura, Agartala, PIN: 799001.

.....Respondent(s).

For Petitioner (s)	:	Mr. P Roy Barman, Sr. Adv. Ms. A Debbarma, Adv.
For Respondent(s)	:	Mr. P Gautam, Senior GA.
Date of Hearing	:	24.07.2025
Delivery of judgment	:	24.07.2025
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT AND ORDER (ORAL)

24.07.2025

Heard Ms. A Debbarma, learned counsel appearing
for the petitioner and Mr. P Gautam, learned Senior GA
appearing for the respondents.

[2] The petitioner, an Agri Inspector posted in the office
of Superintendent of Agriculture, Rajnagar Agri Sub-Division,
Belonia was put under suspension vide order dated 03.10.2023
issued by respondent No.2 on the allegation that he had used
false document i.e. Madhyamik examination mark-sheet for
obtaining the appointment. According to the petitioner, since

then he is under suspension but no subsistence allowance was provided to him. Therefore, he has filed the present writ petition with following prayers:

- I. Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the Respondents to provide the Petitioner subsistence allowance w.e.f. 03.10.2023 till the suspension Order, dated, 03.10.2023, issued by the Respondent no.2 is formally revoked.
- II. Issue Rule upon the Respondents to show cause as to why a writ in the nature of Mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby quashing and cancelling the Order, dated, 03.10.2023 issued by the Respondents no.2.
- III. Make the rules absolute.
- IV. Call for records.
- V. Pass any further Order/Orders as this Hon'ble High Court considered fit and proper.

[3] Learned counsel Ms. A Debbarma, during hearing refers to office order dated 28.02.2024 issued by the respondent No.2, Director, Department of Agriculture, Tripura (Annexure R3 to the counter affidavit) which shows that an order was passed on 28.02.2024, i.e. after institution of the writ petition, allowing subsistence allowance to the petitioner in the following terms:

**"Government of Tripura
Department of Agriculture & FARMERS WELFARE**

No.F.2-9433(P)12360-12365 Dated, Agartala, the 28/02/2024

OFFICE ORDER

Md. Firoj Mia, Agri. Inspector placed under suspension vide this Department Order. No.F.2-9433(P)/6376-80 dated 03.10.2023, is hereby granted subsistence allowance at the following rate with effect from 03.10.2023.

- a) Subsistence allowance at an amount equal to leave salary which the Govt. Servant would have drawn if he had been on leave on half average pay or half pay.
- b) Compensatory allowances as was received by him on the date of suspension.

Md. Firoj Mia, Agri. Inspector should give an undertaking to the Head of Office as per specimen copy enclosed to the effect that he has not undertaken any other profession during the period of suspension before drawal of the subsistence allowance.

(Saradindu Das)
Director of Agriculture,
Tripura."

[4] Along with the same, another copy of statement of bank transaction is also relied on by the respondent to show that the subsistence allowance for the period from 01.11.2023 to 28.03.2024 i.e. for five months was paid to the petitioner. Learned counsel Ms. Debbarma, submits that despite specific order passed by the respondent No.2 no further payment was made regarding the subsistence allowance for the period commencing from April 2024 till the date and moreover, no enhanced rate of subsistence allowance has also been provided to the petitioner which he is entitled according to FR 53.

[5] The relevant provision of FR 53 (1)(ii)(a)(i) is extracted hereunder:

**53 (1) (ii) in the case of any other Government servant--
(a) a subsistence allowance at an amount equal to the leave salary which the Government servant would have drawn, if he had been on leave on half average pay or on half pay and in addition, dearness allowance, if admissible on the basis of such leave salary :**

Provided that where the period of suspension exceeds three months, the authority which made or is deemed to have made the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first three months as follows :

(i) the amount of subsistence allowance may be increased by a suitable amount, not exceeding 50 percent of the subsistence allowance admissible during the period of the first three months, if, in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Government servant;

(ii) the amount of subsistence allowance may be reduced by a suitable amount, not exceeding 50 percent of the subsistence allowance admissible during the period of the first three months, if, in the opinion of the said authority, the

period of suspension has been prolonged due to reasons, to be recorded in writing, directly attributable to the Government servant;

(iii) the rate of dearness allowance will be based on the increased or, as the case may be, the decreased amount of subsistence allowance admissible under sub-clauses (i) and (ii) above."

[6] Learned Senior GA Mr. P Gautam, on the other hand submits that though the writ petition was filed on 07.02.2024 but it is not correct that due to filing of the writ petition the subsistence allowance was allowed by the respondent No.2. Rather prior to receipt of the notice of said writ petition the respondent No.2 issued the order of payment of subsistence allowance.

[7] Mr. Gautam, learned Senior GA also submits that in terms of the office order dated 28.02.2024 passed by the respondent No.2 already five months of subsistence allowance has been paid to the petitioner but he has no information as to whether any further amount was paid to the petitioner in the light of said order of respondent No.2 or not.

[8] Considered the submissions of both sides. As per FR 53 (1)(ii),(a)(i) as is quoted above, the subsistence allowance is required to be increased by a suitable amount not exceeding 50% of the subsistence allowance as admissible during the period of first three months if the prolongation of suspension is not attributable to the petitioner, but as it appears when the respondent No.2 passed the office order on 28.02.2024 said provision of enhancement of subsistence allowance was not taken care of .

[9] In these circumstances, the writ petition is disposed of with a direction to the respondent No.2 to pass an order of enhancement of subsistence allowance in terms of FR 53 and other related provisions of law, within four weeks from the date of receipt of copy of this judgment, if such prolongation of suspension is not attributable by the petitioner.

[10] The respondents are also directed to immediately release the unpaid subsistence allowance in terms of office order dated 28.02.2024 (Annexure R3) within the above said period of 4(four) weeks. The respondent No.2 shall also enquire whether there was any deliberate disobedience of the said order dated 28.02.2024, by any official under his control. In case of any such deliberate disobedience of the said order, necessary action will be taken by him in accordance with law against the erring official.

With such observations and directions, this writ petition is disposed of.

Pending application(s), if any, also stands disposed of.

JUDGE